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MEDICO-LEGAL PROBLEMS IN RELATION TO VENEREAL DISEASE

Discussion after Addresses by DR. CROOKSHANK and MR. EWART WORT.

THE PRESIDENT said that any criticism of the legal profession uttered at a meeting of this Society was of a purely friendly character.

With regard to legislation in other countries, he understood that Denmark was the first country to initiate any legislation on the subject, and there it had been fairly successful. The difficulties in England related not so much to law as to practical application. Another very important question which arose in connection with venereal disease was that of employment. What about the doctor's responsibility in the case of the man who, if it were known he had the disease, would lose his job? Some years ago the case was debated in *The Lancet* of a signalman who had tabes. The doctor had told him that he ought to give up his work, otherwise it would only be a matter of time before he brought about a serious disaster. This the man refused to do. The doctor asked *The Lancet* what he was to do, and the reply was that if he gave the man away without his consent he would be liable to considerable damages. In that case the action would not be for slander, with hypothetical injury, but for the concrete injury suffered by the man in losing his job.

A very important point arose in connection with the giving of evidence by doctors who were in charge of venereal disease clinics, and on that matter he would like to hear the opinion of Colonel Harrison. It seemed to him that lawyers rather refused to take large views on these matters; they worshipped the administration of justice, but the great thing to be kept in view was, not an abstract and inflexible principle, but the general benefit of the public. In the case of venereal disease clinics, was it not better that the people who came to the clinics should have confidence in the doctors, and not be deterred

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from coming from any fear of the breaking of the seal of secrecy ?

Colonel L. W. HARRISON said Mr. Wort had given some very excellent reasons for the extension of professional privilege to certain communications made to medical men. He had said that communications made to lawyers were privileged because of the particular class of communication. Surely for this very reason communications relating to venereal disease should be regarded as privileged. It was in the interests of the community that this should be so. When the Government established the venereal disease clinics, it held out to the public the promise that the nature of the disease should not be disclosed in any circumstances, and the knowledge that doctors must disclose these matters in a court of law must deter patients from seeking treatment. It would be disastrous if the public did not come freely to the public centres for treatment, and any action which prevented the freest possible use of V.D. treatment centres must be regarded as anti-social in character.

Dr. D. NABARRO said there were a number of cases in which there was no history of primary, sometimes no history of secondary, lesions, and such people might conceivably marry without having any sign of the disease and still be able to convey it. Hence, how could it be said when it was safe for a person to marry ? Even the Wassermann test did not help in every case, for this test might be positive for a long time without the person being in a condition to communicate the disease. Another point was, could a parent be compelled to bring a child who had congenital syphilis for treatment ? He thought such parent could be compelled to bring the child for treatment, and in such cases he had gone so far as to ask the N.S.P.C.C. to take the matter up. He was prepared to support this contention in a court of law.

Mr. WORT, replying to Dr. Nabarro, said there was no legislation bearing on that particular matter ; it was not a statutory enactment that such a child must be brought for treatment, but where it could be proved that the child was being wilfully neglected, the parents could be prosecuted.

Dr. SEMON asked what was the doctor's position outside a court of law ; *i.e.*, if a solicitor wrote and requested information as to the nature and state of a party (husband

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or wife), and said the information was to be used in some divorce proceedings. His view was that one should not give the information.

With regard to venereal disease or its complications, and employment, he had had a case similar to that mentioned by the President. A 'bus driver was suffering from aneurism of the aorta due to syphilis, and in that case he had thought it his duty to give the employers the information they required.

Dr. SHARP spoke of a case in which an old gentleman was suffering from cerebral syphilis resulting from infection at the age of eighteen, and his son, having some inkling of the nature of his father's condition, and having just married, asked the doctor whether his father had something which he could have communicated to him (the son). An affirmative answer was given. The Wassermann test was applied to the son, and, fortunately, it turned out negative, but the matter became known to the father, who thereupon became hostile to the doctor and refused further treatment for his malady.

Dr. DENNIS VINRACE said he had made it an inflexible rule in his practice never to communicate any confidential information to a third party. He had refused to tell a mother what was the matter with her daughter, though, as a consequence, he lost the family as patients. In the case of private patients who wished to be confidentially treated he did not even ask their names.

Dr. CROOKSHANK, in reply, said that if absolute privilege were given to the officers of V.D. clinics, it was a question whether the community would thereby benefit. He thought Colonel Harrison, in assuming that the community was benefited by the protection of offenders, rather begged the question. For, were such absolute privilege conceded, while V.D. clinics remained on their present voluntary footing, an offender could escape the consequences of his offence by going to such a clinic instead of to a private doctor, and a wronged wife, for example, would be denied justice.

His (the speaker's) principle was that the community benefited not when the wronged were baulked of justice and the offenders were shielded, but when the innocent were protected and the offenders punished.

Mr. WORT said that if privilege was going to be given to the medical profession it would have to be an absolute

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privilege, and the courts of law would be brought to a standstill. Medical men would practically be prohibited from going into the witness-box. The President had rather suggested that lawyers were administering what was really their own justice, but it was necessary to remember that the lawyers simply had to administer the law as it was found at the moment.